

## BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

In the Matter of: )  
 )  
 Opinion requested by )  
 Senator Newton R. Russell )  
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No. 75-085  
 October 1, 1975

BY THE COMMISSION: We have been asked the following question by Senator Newton R. Russell:

In the fall of 1974, Mr. W. Dean Cannon, Jr., a registered lobbyist, arranged for a \$200 contribution from the California Savings and Loan League Good Government Committee to Senator Russell. In December 1974, Mr. D.W. Ferguson, the League Treasurer, authorized payment of the contribution and disclosed it in the League's December 18, 1974, campaign statement. However, prior to mailing, the check containing the contribution was misplaced in a League secretary's desk, and it was not mailed to Senator Russell until after the effective date of the Political Reform Act.

May Senator Russell accept this contribution?

## CONCLUSION

Senator Russell may not retain the contribution.

## ANALYSIS

The issue here is whether the contribution to Senator Russell was made before or after the effective date of the Political Reform Act. Government Code Sections 81000, et seq.<sup>1/</sup> To analyze this issue, we analogize to the California law of gifts. It is well settled under California law that there are three elements essential to the execution of a gift of personal property: (1) donor's intent; (2) delivery; and (3) donee's acceptance. See generally, Hynes v. White, 47 Cal.App. 549, 553; 190 P. 836 (1920). In the facts presented, the donor's intent is manifested by its disclosure in its December 18, 1974, campaign statement of a contribution. Moreover, since acceptance

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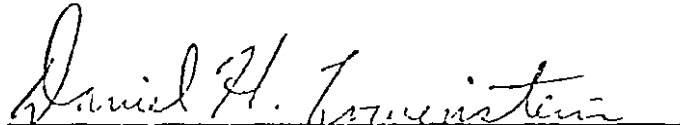
<sup>1/</sup>  
 All statutory references are to the Government Code unless otherwise noted.

of a beneficial gift generally is presumed, Estate of Kalt, 39 C.2d 807, 813; 249 P.2d 257 (1940), we can assume that the third element for execution of a gift also is present.

The delivery element, however, requires that the donor completely relinquish dominion and control over the property. Blonde v. Estate of Jenkins, 131 Cal.App.2d 632, 281 P.2d 14 (1955). Here the donor's agent retained control and possession of the property until after the effective date of the Act. Accordingly, the contribution was not completed before that date.<sup>2/</sup>

Sections 86200 and 86202 prohibit a lobbyist from making or arranging for a contribution to a state official. Section 86204 prohibits an elected state officer from knowingly receiving such a contribution. Since delivery, and thus the contribution, occurred, if at all, after the effective date of the Act, we conclude that Senator Russell must return the contribution to the donor.

Approved by the Commission on October 1, 1975.  
Concurring: Brosnahan, Lowenstein and Miller. Commissioners Carpenter and Waters were absent.

  
Daniel H. Lowenstein  
Chairman

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<sup>2/</sup>

This opinion is based upon California personal property law. We observe, however, that nothing in this opinion affects the responsibility of donors and donees to report pledges pursuant to Sections 84000, et seq.